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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

FEB 27 1979

MEMORANDUM

SUBJECT: Emission Offset Policy - Determination of Replacement Facility

FROM: Director
Division of Stationary Source Enforcement

TO: Carl V. Blomgren, Director
Air and Hazardous Materials Division, Region VII

This is in response to a telephone determination request made to this office of February 8, 1979, by Craig Smith of your staff. From that conversation it appears that Kansas has proposed in its SIP to use the closing of a National Can Company plant in November 1977 as an offset applied towards construction of a new Reynolds metals can company. The new plant is to be built several blocks from the closed facility, in the same nonattainment area. The spot vacated by the closed facility is now occupied by a totally different facility. The question raised was whether the new plant should be considered a replacement facility, in which case credit from the closed facility may be applied to offset emissions from the new can plants.

This office has determined that the proposed offset is not in accordance with the requirements of the Emission Offset Interpretative ruling of January 16, 1979 (44 FR 3274-85) and cannot be approved.

According to footnote 6 of Appendix S (44 FR 3284), "where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source". Although fulfilling the time requirement (the source shutdown occurred after the date of enactment of the 1977 Clean Air Act Amendments), the Kansas SIP provision does not fulfill the requirement that the new source clearly be a replacement.

The new source will be constructed at a different company, and at a time nearly two years after the old source closed down. This situation does not represent a replacement, and is not covered under the emission offset provision of footnote 6.

The revised offset ruling does allow banking of reductions which exceed the requirement of more than equivalent offsets to insure reasonable further progress. A State may allow emission offsets banked after January 16, 1979, to be used provided they are identified and accounted for in the SIP control strategy. However, a source shutdown prior to the filing of a new source application could not be used for offsets, and excess emissions reductions could not be banked, unless the new source is clearly a replacement.

This memo has been prepared with the concurrence of the Office of Air Quality Planning and Standards. If you have any additional questions, please contact Robert Myers of my staff at FTS 755-2564.

Edward E. Reich

cc: Kent Berry, OAQPS
Larry Novey, OGC